

Legal Alert

Work-life Balance Amendment to Labour Code

Labour Code amendment as of 26 April 2023

The latest amendment to the Labour Code aims to implement the following two EU directives into the Polish legal order: Directive 2019/1158 of the European Parliament and of the Council (EU) of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU (the so-called “work-life balance” directive) and Directive 2019/1152/EU of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union.

Below, we present the most important changes.

Recruitment

The changes will include the conditions for **establishing the term of a probationary contract**. When concluding it, the parties must foresee which contract they intend to conclude following the probationary period. A mechanism has been introduced that makes the length of the probationary period dependent on the term of the ultimate employment contract. If the parties intend to conclude an employment contract:

- for a fixed term of less than six months, the probationary period may be a maximum of one month;
- for a fixed term of at least six months but less than twelve months, the probationary period may be a maximum of two months.

A probationary contract of three months can only be concluded if the next contract is a fixed-term contract of more than one year or an indefinite-term contract.

In addition, the employer must inform employees about **promotion opportunities and vacancies**. Employees already employed will be able to participate in new recruitment processes and apply for vacancies.

Termination of contracts

A requirement to **justify the termination of a fixed-term contract** (just like the termination of an indefinite-term contract) was introduced. Employers with trade unions will also be required to notify the trade union that represents the employee of their intention to terminate a fixed-term contract. In some cases, dismissed employees who were employed under fixed-term contracts will be able to claim for reinstatement (previously, they could only claim for damages).

Another novelty is the employer's obligation to justify the termination of a probationary contract, if the employee so requests and cites inadmissible termination reasons (e.g., that he or she has asked the employer for a more favourable form of employment).

Flexible working arrangements

Parents of children up to the age of eight may request flexible working arrangements, i.e. .:

- remote working;
- reduced working hours;
- intermittent, short working week or weekend working system;
- mobile or individual working time schedule.

The employer must consider the request taking into account both the employee's needs and its own ones, such as the type of work performed by the employee, the needs of the company, including the need to ensure the normal flow of work, or the organisation of work. Reasons for refusing a request for flexible working arrangements must be provided in writing or by email within seven days.

New types of leave and time off

There is new **time off on grounds of force majeure** of either two days or 16 hours per year, payable at 50% of remuneration. It can be used on grounds of force majeure for urgent family reasons caused by illness or accident making the immediate attendance of the employee indispensable. The employer must grant such time off upon the employee's request not later than the day when the time off is granted.

Another novelty is the introduction of new (unpaid) **carers' leave** of five days per year, granted to provide personal care or support to a person who is a family member or cohabites with the employee and who requires care or support for serious medical reasons. Under the new regulation, a family member is the employee's son/daughter, mother/father or spouse. The employee should apply for the leave in writing or electronically at least one day before the start of the carers' leave.

The amendment also introduces additional **parental leave** (paid by social security) for parents of children under six years of age. The employee can take an additional nine weeks of parental leave that will not be transferable to the other parent. This possibility is also available to employees who were entitled to parental leave as of 2 August 2022.

New information obligations

The list of employment-related information that an employer must provide to an employee has been significantly expanded:

- information on the terms of employment has been expanded;
- the obligation to provide additional information, e.g. regarding social security or a change of employer's address, has been introduced.

Working conditions

An employee who has served for at least six months will be able to **request** once a year that the employer **change his or her employment form or working conditions**. The request may concern, for example, a change in the type of employment contract to an indefinite term one or full-time employment. The employer must respond to the request within one month and, if possible, grant it. In the case of refusal, its reasons must be given to the employee.

Changes have also been made regarding **additional employment**. An employer may not prohibit an employee from taking on additional employment, unless it is a competitive activity. In that case, a non-competition agreement must be concluded with the employee.

The amendment also modifies the conditions of **employing parents who raise children aged up to eight**. The employer cannot employ such an employee without his or her consent to work overtime, at nighttime or in the intermittent working time system or send him or her on business trips (until now, this right has been available to parents of children up to the age of four).

Please contact us

If you have any questions or doubts, we will be pleased to prepare a detailed analysis of the changes with regard to your business.



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